2: Hudson B-4, 5 (1936) 1938 BQS Kazak BQS

son beau-père, où l'attendent les compliments et les félicitations . . . . Si, au contraire, le mari n'a pas trouvé sa femme dans l'état d'innocence, il a le droit de tuer le cheval, de déchirer la robe, de briser la tente à coups de sabre, et après avoir ainsi couvert d'ignominie l'impudente, il peut exiger du père ou le kalym acquitte ou une autre de ses filles, et sans aucun payement.

Levshin mentions in passing that these vigorous manifestations of feeling had in his day lost a great deal of their force.[80]

A certain tacit social sanction, however, was given to pre-marital sex relations with a fiancée by the custom of permitting a man who had already paid the greater part of the kalym to visit his betrothed secretly at night in a kibitka set up for her by her brothers and sisters.[81] He was expected, however, to depart early in the morning before the parents of the girl emerged from their own dwelling. His early departure was of course a gesture to convention because the girl's parents naturally knew of the extra kibitka and their daughter's absence from their own. Radlov adds that this arrangement gave the girl opportunity to carry on love affairs with other young men of neighboring auls.

It is difficult to get detailed information on illegitimacy. My informants said there would not be any; the girl would always get married. Tlenshiev finally said that the child might be aborted or exposed on the steppe "so that her parents would not know." How they were kept ignorant during the period of pregnancy is not clear but it is obvious that to bear a child out of marriage or certainly without being betrothed was considered a disgrace.

Rudenko[82] writes that women rarely resort to abortion. When they do they drink an infusion of herbs with mercury or construct a small type of sweat house in which mercury is thrown over red-hot stones. The vapor of the mercury is supposed to produce the desired effect. One of my informants said that the mullah performed abortions but the others scoffed at the idea.

Grodekov[83] confirms the information about the rarity of illegitimacy.

> It is impossible to say anything about the illegitimate children of young girls, because in the steppes all young girls go out and get married. In the Kazalinsk district they bury them [the children] in the ground.

Elsewhere Grodekov reports that an unmarried girl who bears a child will marry the father of the child. Her relatives are usually able to claim from him at least a part of the bride price and if she is young, beautiful and of good family perhaps the whole amount.[84]

Adultery, by the old Mongol code[85] and also by the Kazak code credited to the Khan

[80] See also Dingelstedt, *Le Droit coutumier*, 150.
[81] Radlov, *Aus Sibirien*, 1: 477.
[82] *Ocherk Byta . . . Kazakov*, 49.
[83] *Kirgizy i Karakirgizy*, 97.
[84] See Dingelstedt, *Le Droit coutumier*, 150.
[85] Riazanovskii, *Customary Law of the Mongol Tribes*, 57.

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lives on meat, reaches full age earlier (from the age of 10) than the poor man's daughter (from the age of 15). Then Khamahammed added: "I cannot speak for others, but I only know that I reached my majority (balagatka yettim), /37/ at 12, since from that time on I became capable of being the father of a family (kedkhudachilikke yarab idim). Other weaker people (nacharrak adam) mature only at 15."

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Children enjoy the protection of the mother's clan (turkun), when the father's clan is inactive or absent. There are cases when after the death of the father from the clan,, det us say, of Chumekey, the boy is raised among his mother's kin, let us say, Dzhappas, and calls himself Dzhappas among them, to avoid coldness in his relations. However, in case the boy is killed, his own clan demands the wergeld and not his mother's clan.

If the deceased father has no relatives, the children go to the mother's clan. The son is free to go or not, for he can take a trade, but the daughter must go. They demand her in court.

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No one can belong to his mother's clan. Even illegitimate children (kharami nikasyz) seek out their father, and are considered to be of his clan. Children born of a widow several years after the death of her husband, are in some places considered on an equal with the children of the deceased. (Perovsk uyezd).

Among the Kirgiz, those who have grown up in a strange clan do not cease to consider themselves of the clan of their father. But kharami bala, without a father, consider themselves in the mother's clan.

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Adopted children, inchiles bala, as the name itself indicates, are sharers of the property alloted by their titular parents. The adopted son pays fines and wergeld and receives them just as the real children. When the parents of the boy to be adopted are alive, their consent is necessary for the adoption.

Mutual adoption or exchange of children is possible only between kin. The adoption of a child is announced before witnesses and is accompanied by the slaughter of an animal, from which a witness, the aksakal, puts the asyk /38/ yilik bone into the hand of the adopted child if it is a boy. The adopted one, showing it in his hand, takes some to eat. A girl can be given the tokpan yilik.

often more. For the mutilation of a woman, half as much wergeld is paid as for the same mutilation suffered by a man. 562 [681]

In contradiction to the report of I. I. Ibragimov in "Zamtki o Kirgizskom Sude" /Notes on Kazakh Justice/, St. Petersburg, 1878), concerning the judgment of affairs of widows of prominent Kazakhs, Torgai holds that the widows of such persons are not turned to for judgment, and that even if they asked the woman, she could not decide the affair. She can only assist in the pacification between husband and wife, saying to each: Stop, do not scold, this is shameful (koy, yaman syuileme, aib bulady). (2) According to the report

2. According to Makovetskii, I, p. 31, a village is sometimes ruled by a widow temporarily, until her sons reach majority. On the matriarchy as the oldest structure preceding the patriarchy, cf. Pervobytnoe Pravo /Primitive Law/ by Maksim Kovalevskii, Pt. I, Chapter III: The maternal clan.

of bii Sultan Kanaev, although a woman cannot be a bii, in some villages one can find women who do judge the affairs of women (khatyndy biyley tugun).

/96/ Women do not take an active part in war. If they have enough spirit (gayrati kelse), they defend their village against attacks (Abdrakhman). In one folk epic the wife, named Khanekey, accompanies her husband Zarlyk on an expedition to free the husband's sister.

The woman nurses the wounded relatives. The care of those who are not relatives is left to her good nature. [612]

E. A. Aleksandrov reports that custom in general forbids women to slaughter animals, but in extremity when the men and grown boys are absent from the village a woman can slaughter a sheep for food, carrying out all the necessary religious ceremonials. [231]

Children out of wedlock can fail to be adopted. Then they go to to seek their father. 848

The children of a girl who is not betrothed to their father also go to seek their father. A bridegroom does not consent to take a bride with strange children. He is more apt to make a raid (barymta) to kill the father of these children (Perovsk uyezd). [628]

The people do not permit unlawful cohabitation, but it does exist, and in such cases the men call the women living with them servants, as though they were working for wages. The women in 588

588 question, if they do not come to terms with their lovers, demand payment in court for their service. Such a complaint took place in the Kazalinsk uyezd in 1887, by a woman who had lived with a man more than 10 years. The bii rejected her suit against the man.

586 If after the departure of the husband a child is born after 9
837 months and 10 days or more, the husband divorces the wife, and she
848 marries her lover, who pays the former husband a kalym, either his daughter or a kinswoman. If the husband does not wish a divorce, he receives the wife with the strange child and a fine from the lover of 2-3 camels (in former times he received a full kalym). If the child was conceived by the lover, but not during the absence of the father, it is considered the lawful child of the husband. According to Torgai, children of widows, born out of wedlock, remain /97/ with her until her death. Before she dies they ask about their father and look for him.

848 It is impossible to speak of illegitimate children of unmarried girls, according to Torgai, for on the steppe all the girls marry (kyz dalada kalmaydy). In the Kazalinsk uyezd such children are buried in the ground. According to Aleksandrov and Makovetskii, a child born of a widow and the brother of her deceased husband is considered a legitimately born member of the family. (1)

1. Staff Captain Grombchevskii reports the following concerning the attitude of the Kirgiz of the Fergana region to illegitimate children. Bringing a child into the world from fornication not only covers the family of the girl with shame, but also her entire clan. In order to avoid the scandal they try to marry the girl upon the first signs of pregnancy. When this is not successful, they have recourse to stopping the prenancy. This is either done mechanically, or by giving the patient an infusion of the "usma" plant, or finally they put the child to death immediately after birth. Illegitimate children do not succeed the father, and are usually banished from the village as soon as they are big enough to herd livestock or to support themselves by other means. They are called kharam, kharmzade, valadizina, and in the Ketmen-Tiube volost also gartakum (born of a libertine). There are cases, however, when the birth of a child out of wedlock is not considered a scandal, namely, 1) from a groom and bride, if they later marry, 2) from a widow and

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the younger brother of the deceased, whom the widow is supposed to marry, 3) from a master and a servant woman or slave. In such cases the child is not considered kharami, but nikokhsiz, i. e., born without a wedding, outside wedlock, and remains a member of the family, is not despised, and even inherits on an equal basis with the other children.

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It is said by the baksy (sorcerer) Aike, of the Kurama uyezd, that when a woman in labor cannot give birth (balany bittirmeydi) or is giving birth improperly (egri), the sorcerer calls in the spirit Nurperi and others to give her more strength. According to the evidence of E. A. Aleksandrov, during birth they always send for a sorcerer, if there is one in the neighborhood.

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When the moment arrives for the delivery of the child, one woman takes the woman in labor in her arms, placing her knees to the latter's spine, and presses her stomach. The woman in labor says: Press, press! (tart, tart). If the woman's strength is not great enough, a dzhigit /rider/ takes her place. Levshin says that everyone entering the tent during this event is supposed to give the woman in labor a skirt and say: Go out (chyk). According to Torgai this is not done. /98/ When the afterbirth (ui or dzholdas) does not appear soon after the birth of the child, a woman takes a pestle from a mortar (kelesab) and starts to pound the ground in the courtyard. She asks: Has it come out? (tusti me). The women inside the tent answer three times: It came out! (tusti).

Neighbors who know of the confinement do not enter the tent, but anyone who enters accidently, man or woman say: It is born, it is born (tuar, tuar), and must tear half his clothing (itegin yirtady), to make the labor easier. When the woman in labor is in great pain, they assume that the child is in reverse position (ters kel'di). Then one woman lifts the woman in labor with the legs up, asking one of the old women: Is it straight or reversed? (ong ba terebe). The latter answers three times: straight (ong). After this the woman in labor is put back on the ground.

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An hour after the delivery, when the woman who has given birth is bleeding, she is sometimes being pressed down (basady) by the blood demon (albasty) Martu. (1) Martu will cause her death if a man or a

1. Martu never frightens men.

[Great Horde]

428 survived her husband, the youngest son and the mother shared a double portion. Izraztsov gives the following instance: a woman with four sons received from her husband a herd of 200 head of livestock of various kinds. She then divided the herd into five parts; two parts, or eighty head, were reserved for her youngest son and herself, the three older sons, forty head each. This, however, did not require the older sons to move away, for all the herds could continue to share in a common pasture, and to be otherwise indistinguishable, the natural increase being proportional to all.[111]

428 548 589 The widow's portion again was held in trust for her minor sons. A distinction was made between children born out of wedlock as follows: if a widow has borne sons to her deceased husband, any further sons she bore could not share in her husband's estate, but were reckoned to their natural and actual sire's line, a consequence of the doctrine that the son of an unmarried woman participated with full rights in his biological father's estate.[112] On the other hand, sons born to a widow who had borne no sons previously were reckoned to her husband's line if they were born within a few years after the death of the husband, and thus social fact overrode the biological.

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[111] Izraztsov, loc. cit.

[112] Dingelstedt, 154.